



Havering
LONDON BOROUGH

**Planning Committee
23 November 2023**

| | |
|--|---|
| Application Reference: | P1225.23 |
| Location: | 148a Chase Cross Road |
| Ward | Havering Park |
| Description: | Variation of condition no. 2 of planning permission P0450.21 dated 5th April 2022, to extend hours of use to Monday to Friday 12:00-19:30, Saturday, Sunday and Bank Holidays 12:00-17:30 |
| Case Officer: | Habib Neshat |
| Reason for Report to Committee: | A Councillor call-in has been received which accords with the Committee Consideration Criteria |

1 BACKGROUND

There have been a number of recent planning applications seeking to vary a condition which restricts the hours of operation of the site. The most recent application was refused by the Planning Committee on 1st July 2021. However, the subsequent appeal against this decision was allowed on 5th April 2022 subject to conditions, including a condition for a trial period of 18 months to monitor and assess the operation of the use within the restricted hours. The trial period expired on 5th October 2023 and this application seeks to continue the operation of the site with the same restrictive hours as the trial period.

2 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- 2.1 This application seeks to continue the hours of the operation for the site between 12 noon and 7:30, (Monday to Friday) and 12 noon to 5:30pm

on Saturday, Sunday and Bank Holidays. It is considered that subject to other conditions controlling the activities of the community centre, the extended hours of use would continue to be acceptable in relation to any impacts upon the amenities of the neighbouring properties and all other respects.

3 RECOMMENDATION

3.1 That the Committee resolve to GRANT planning permission subject to:

Conditions

1. The premises shall only be used for a place of worship and religious instruction as set out in the Management Plan submitted with the application hereby approved and for no other purpose, including uses falling within Class F1 of the Town and Country Planning Use Classes Order 1987 as amended.
2. The premises shall at all times operate in complete accordance with the Management Plan submitted with the application hereby approved.
3. The visitor numbers of people on the premises at any time shall not exceed 35.
4. No amplified music or speech shall be relayed on the site including within the building.
5. The hours of operation of the premises shall be limited to 1200 to 1930 Monday to Friday and 1200 to 1730 Saturdays, Sundays and Bank Holidays.
6. Parking for nine cars shall be retained on the site in accordance with drawing numbers 99091.1 and 99091.3 approved as part of planning permission P0729.99, dated 5 August 1999. No vehicle parking shall take place other than for those attending the premises during the authorised hours of operation.
7. The car parking area shall not be used for any activities and its use shall be limited to car parking purposes only.
8. There shall be no obstruction or obstacle above 600mm in height in the area of the accessway hatched in red on the plans approved as part of planning permission P0729.99, dated 5 August 1999.

4 PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1 The application site is located on the east side of Chase Cross Road on land to the rear of No. 148 Chase Cross Road and backing onto a private road known as Cardiff Close. The site contains a single storey building which is finished in facing brick.

- 4.2 There are car parking spaces on the site for approximately nine vehicles without hindering access to and from the site onto Chase Cross Road, as approved on the original consent P0729.99. The surrounding area is characterised by single and two storey dwellings of various styles and designs.
- 4.3 The building was constructed in the early 00s following the grant of planning permission subject to conditions including one that restricted the hours of operation. The building has been used for religious purposes for a considerable period of time. The building is currently occupied as a place of worship for the Islamic faith.

Proposal

- 4.4 The permitted hours of operation are from 6.00am to 3.00pm on Sundays and from 6.00pm to 9.00pm on Mondays. The proposal is to continue the use of the premises with extended hours of operation: Monday to Friday 12:00-19:30, Saturday, Sunday and Bank Holidays 12:00-17:30 on a permanent base.
- 4.5 The applicant's agent has provided the following information as part of the proposal;
1. IECC is a registered charity and offers a long list of facilities and services, not only to promote and teach Islam within the Muslim community but also to offer support and guidance to people in need around them, regardless of their beliefs and liaise with neighbours to address their concerns.
 2. The Centre offers many services and facilities to the local community, both Muslim and non-Muslim, including:
 - Family and social support - providing religious and emotional support and guidance in times of crisis, illness and bereavement, including support for elderly people living alone
 - Offering to counsel for those affected by domestic violence, family disputes, etc.
 - Islamic education and teaching children Quran.
 - Participate in the Havering Interfaith Forum - promoting cohesion and religious harmony, enhancing communication between faith communities and other agencies
 - Host local primary school visits to educate children about Islam
 3. In respect of IECC's use of the premises, the nature of Islamic worship means five obligatory prayers per day. Although the current proposed timing will not allow attendees to observe five prayers daily, because Prayer times are determined by the position of the sun in the sky, but it would allow prayers during the allowed times.
 4. Typically each prayer lasts no more than 10-15 minutes. Even allowing time for worshippers (approximately 2 to 20 regular

attendees) to arrive and leave, it is unusual for a prayer visit to extend beyond 30 minutes.

5. For Islamic education we will have a 1.5 hour session on Saturdays and Sundays between 2pm and 3.30pm for children aged between 6 and 12. They will be taught reading Quran in Arabic and Cultural manners. There will be between 15 and 20 attendees.
6. The car park at IECC is sufficient for regular daily prayers. IECC have nominated individuals to monitor and control the flow of the traffic during prayers to eliminate traffic problems.
7. The steps taken by IECC to eliminate traffic problems.
 - Educate the attendee's to park responsibly.
 - Distribute flyers of DOS and DONTs of parking near dropped kerbs.
 - Nominate parking marshals.

The applicant has also explained that;

- There is generally lack of facilities within the borough to worship and growing Muslim population.
- No other place of worship has restricted hours, which are also located close to similar residential settings.
- There is no evidence that the extension of hours would have a significant increase in noise or traffic.
- The Centre is within walking distance of many of worshipers
- All other such facilities are located at a significant distance requiring use of private motor car or by taxi

Planning History

4.6 The following planning decisions are relevant to the application:

1. On 5th August 1999 planning permission (Ref; P0729.99) was granted for the erection of a single storey building with car parking and entrance drive for use as a meeting room. A condition was imposed restricting the hours of the operation between the hours of 6.00am and 3.00pm on a Sunday and from 6.00pm to 9.00pm on a Monday. The reason given for the condition is: In order to minimise the impact of the use on the surrounding residential area.
2. On 27th April 2017 a Lawful Development certificate (E0001 7) was applied for the use of the property as a church on Sundays 6.00 - 21 .00, Saturdays 8.00 -21 .00 and Weekdays 12.00 - 21 .00. Some evidence was produced to show the long term use of the premises aligned with the

above description. However, the application was subsequently withdrawn on 24.July.2017.

3. On 1st October 2019 planning permission (Ref; P0729.19) was refused to extend the hours of operation to 06:00 -21:30 (October to February),04:00 to 23:30 (March to September) for the following reason;

The cumulative impact of extending the hours of use of the premises which would result a greater intensity and frequency of use, and the location of the existing building, would result in unacceptable levels of noise, disturbance and light pollution associated with vehicles manoeuvring, harmful to the residential amenity of neighbouring properties contrary to Policies DC55 and DC61 of the L DF Development Control Policies DPD and the National Planning Policy Framework.

4. The subsequent appeal Ref: APP/B5480/W/19/3243037 against the refusal was dismissed on 14th May 2020.
5. On 3rd February 2021, planning application (Ref P1850.20) (under delegated authority) was refused for the " to extend opening hours to Monday to Friday to Friday 0700-2100, Saturday and Sunday 0800-17:30 and Bank Holidays 0900-1300 for the same reason as with respect to the previous proposal.
6. On 5th July 2021, planning permission, Ref P0450.21, was refused for the change to hours of operation to Monday to Friday 12:00-19:30, Saturday, Sunday and Bank Holidays 12:00-17:30. This application was presented to Planning Committee with an officer recommendation for approval. However, the committee overturned the recommendation and refused the application.
7. The applicant then submitted an appeal against both decisions P1850.20 referenced by the Inspector as appeal A and with respect to Ref P0450.21, appeal B.
8. Appeal A was dismissed by the inspectorate whilst appeal B: (APP/B5480/W/21/3278982) was allowed, subject to the following conditions;
 1. The premises shall only be used for a place of worship and religious instruction as set out in the Management Plan submitted with the application hereby approved and for no other purpose, including uses falling within Class F1 of the Town and Country Planning Use Classes Order 1987 as amended.

2. For a period of 18 months from the date of this permission, the premises shall only operate between the hours of 12:00 to 19:30 on Monday to Friday inclusive and 12:00 to 17:30 on Saturday, Sunday and Bank Holidays. Unless otherwise agreed by the local planning authority, from the end of this 18 month period the premises shall only operate between the hours of 06:00 to 15:00 on Sunday and 18:00 to 21:00 on Monday, with no operation at all on any other day of the week.
3. The premises shall at all times operate in complete accordance with the Management Plan submitted with the application hereby approved.
4. The visitor numbers will be monitored regularly and reviewed after six and 12 months from the commencement of this permission in the form of an updated survey of visitor numbers and travel modes to be submitted to the local planning authority.
5. No amplified music or speech shall be relayed on the site including within the building.
6. Parking for nine cars shall be retained on the site in accordance with drawing numbers 99091.1 and 99091.3 approved as part of planning permission P0729.99, dated 5 August 1999. No vehicle parking shall take place other than for those attending the premises during the authorised hours of operation.
7. The car parking area shall not be used for any activities and its use shall be limited to car parking purposes only.
8. There shall be no obstruction or obstacle above 600mm in height in the area of the accessway hatched in red on the plans approved as part of planning permission P0729.99, dated 5 August 1999.
9. On 28th September 2023, application (Ref; Q0072.23) for the discharge condition 4 of the appeal decision with respect to the visitor's number was approved

CONSULTATION RESPONSE

- 5.1 The views of the Planning Service are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.
- 5.2 A total of 39 neighbouring properties were notified about the application and invited to comment.
- 5.3 The number of representations received from neighbours, local groups etc in response to notification and publicity of the application were as follows:
- 5.4 5 objections have been received. The following issues were raised in representations that are material to the determination of the application, and they are addressed in substance in the next section of this report:
 - This is not a suitable site for a community use
 - Parking issues including lack of on-site parking and parking over drives.

- There has not been a significant amenity issue since the hours of operation was imposed and seemingly the applicants have adhered to the restrictive hours. However, it is feared that once a permanent permission is granted then there would be likelihood of breach of planning by extending the hours of operation. Therefore, if planning permission were to be granted it should be for another temporary period of 18months.
- There have been 3 serious accidents.
- The car park area are sometimes used for playing by children

5.6 The application had also been called into committee by Councillor Ray Best for the following reasons;

The increase in hours of operation would cause amenity issue to the neighbouring properties and parking problems.

5.7 In response to the above comments, the information submitted has been accepted in good faith. The details of the Iqra Educational & Cultural Centre being a registered charity is not a material planning consideration. The application under consideration is for the changes of hours as on the application form and as described on the notification letters.

5.8 With respect to the comment "no other place of worship is subject to restricted hours", it should be noted that each planning application is considered on its own merit.

5.9 With respect to the comment this is not location for a community use, it should be noted the application site has emerged following a grant of planning permission for a community use.

5.10 In addition, it is noted that the Council's Highways and Environmental Health Department have not objected to the proposal. However, these issues would be further discussed below

6 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning issues raised by the application that the committee must consider are:

Impact upon the amenities of the adjoining occupiers

Impact upon highways condition;

6.1 The site is located in a sensitive location. The residential properties are located immediately to the north and north east on Chase Cross Road and to the properties to the south along the private road of Cardiff Close.

The entrance to the centre is located on the north elevation of the building fronting to Chase Cross Road. The main planning issues raised by the application that the committee must consider are, the impact on neighbouring amenities and highways safety conditions.

- 6.2 The recent planning history reveals the premises has been subject to two recent appeals in relation to operating hours. One for extension to extend opening hours to Monday to Friday 0700-2100, Saturday and Sunday 0800-17:30 and Bank Holidays 0900-1300 (appeal A) and the other Monday to Friday 12:00-19:30, Saturday, Sunday and Bank Holidays 12:00-17:30 (appeal B). The appeals were considered simultaneously by the same appeal inspector.
- 6.3 The inspector in dismissing appeal A was concerned with the disturbance to the amenities of the local residents during the early and later operation when residents are at home and require period of peace and tranquillity. .
- 6.4 However, in allowing the appeal B (subject of this application), the Inspector explained “while the building would be in use every weekday, the start and finish times are materially shorter, particularly in the morning, and would coincide with periods when residents are more likely to be at work or otherwise away from home. The proposed times of use at weekends would also be considerably shorter by starting four hours later than proposed under Appeal A. As such, with the attendance levels and vehicular visits indicated in the appeal submissions, these periods of use are unlikely to result in material harm. I note in this regard that both main parties suggest a temporary permission to enable the effects of the proposed use to be monitored and assessed.”
- 6.5 The inspector also agreed, “the temporary period would be appropriate and necessary in the circumstances and am also mindful of the capacity of the main hall, which could result in an increase in visitor numbers over time. This could lead to greater vehicle movements and other associated noise and disturbance that could be harmful to neighbours' living conditions. I see no basis currently for limiting the number of users of the building at any one time to 30, as the appellant suggests. It is unclear what the effects of this would be and, therefore, any effects related to this or other levels of use above those indicated in the appeal submissions that might arise would need to be monitored and assessed.”
- 6.6 From the comments and the conditions imposed by the inspector it is clear the hours of operation could be acceptable so long as other mitigating measure secured through conditions are complied with appropriately. In particular the number of the visitors to the centre would be a significant issue. This is the reason why the inspector recommended condition 4

which sought to assess whether a condition restricting the number of the visitors to the site would be justifiable. Further, consideration was given to appropriate behaviour of the visitors to the centre with reference to parking and avoiding loud or amplified sound and music.

- 6.7 In accordance with Condition 4, the applicant has provided monitoring records with respect to the attendance at the centre for the period of 6 and 12 months. The information provided indicated that degree of attendance varied on any given day. Overall the number of attendance is quite low (generally less than 20 at any given time). The exception being on days the centre offers Quran classes where high number (max 23) have been recorded to attend.
- 6.8 From the consultation exercise it would appear whilst some issues remain a source of concern, by and large it seems that the applicants have adhered to the hours of conditions as well as those of other mitigating measures including appropriate parking. With respect to previous application, the council received over 60 objections, whilst the number of objections have been reduced to 5 in respect of the current application. In addition, some have commented that the impacts have been acceptable, albeit they are concerned that the grant of a permanent planning permission may alter the situation.
- 6.9 In terms of the impacts from the operation, it is apparent that the level of impact is limited due to the attendance levels which are relatively low compared to the likely maximum capacity of the premises. It is therefore considered reasonable and necessary to impose a condition limiting maximum attendance to 35 people at any one time. Should attendances increase beyond this level, an application to vary the maximum numbers will enable the Local Planning Authority to consider such impact including temporary periods to monitor any impact of additional attendees and any further control measures.
- 6.10 It is therefore considered that hours of operation are acceptable subject to other mitigating measure to be in place. Hence, approval is recommended subject to the necessary conditions set out above.

7 Highway issues;

- 7.1 The Highways Department has no objection in respect to the proposal.
- 7.2 There are bus stops very close by and those cycling can leave their bikes inside the building. The venue has an off road car park that accommodates nine vehicles. The application is supported by a transport impact assessment, which also includes the details of monitoring of arriving by different modes of transport. Whilst the data indicates that the percentage of those arriving by cars are higher than those using other

modes of transport, in comparison with the predicted level, the overall number of arrival by cars remain quite low.

8. Public Sector Equality Duty;

8.1 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 ('EA') requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

8.2 The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.3 "Due regard" is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the Council is properly aware of the effects and has taken them into account, the duty is discharged. Depending on the circumstances, regard should be had to the following:

- (i) the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision;
- (ii) the need to remove or minimise disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic;
- (iii) the need to take steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. For example, meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities;

- (iv) the need to encourage persons who share a protected characteristic to participate in public life (or in any other activity in which participation by such persons is disproportionately low); and
- (v) the need to tackle prejudice and promote understanding.

- 8.4 The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998 (the HRA). This planning application engages certain human rights under the I-IRA, which prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
- 8.5 This application has the legitimate aim of amending the hours of operation for a place of worship. The rights potentially engaged by this application, including the right to the peaceful enjoyment of one's possessions, and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.
- 8.6 As part of the appeal, the Planning Inspector "had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal requests an extension of the operating hours of the premises for the purposes of Islamic worship, the attendees are persons who share a protected characteristic for the purposes of the PSED".
- 8.7 However in dismissing the appeal A and restricting the hours of operation through condition with respect to appeal B, the Planning Inspector commented that "the opportunity to worship on the premises would be limited. However, it does not follow from the PSED that the hours should be increased to the extent of those sought. Whilst I note that the National Planning Policy Framework at paragraph 92 states that planning decisions should look positively on the provision and use of community facilities, I must also have appropriate regard to the significant harm to the living conditions of nearby occupiers that I have identified in coming to my decision".

Summary and Conclusion

- 9.1 This application is resubmission of an application which has already been approved for a temporary period. It appears that the impact upon the amenities with respect to activities associated with the use of the premises, through the mitigating measures have been carried out to an acceptable level.
- 9.2 It is considered that subject to the conditions set above the proposed hours of operation on a permanent basis would not likely have an unacceptable impact upon the amenities of the adjoining occupiers..

All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.